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Additional Counsel Listed on Next Page

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Austin M. Higley, et al.,

No. 2:21-cv-01126-TLN-JDP

Plaintiffs,

V.

California State University, *et al.*,

**STIPULATION AND [PROPOSED]
ORDER TO EXTEND DEADLINES FOR
BRIEFING AND TO CONTINUE
HEARING DATE ON FEDERAL
DEFENDANTS' MOTION TO DISMISS**

Defendants.

[L.R. 144, 230]

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5 *Counsel for Plaintiffs Austin M. Higley,
6 Kyle J. Clark, and Ryan D. Clark*

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1 Pursuant to Local Rules 143, 144, and 230, and the Court's Case Management Procedures,
2 Plaintiffs and Federal Defendants hereby stipulate, subject to the Court's approval, to the following:

3 On August 5, 2021, Federal Defendants filed their motion to dismiss (ECF No. 12), arguing that
4 the Court lacks jurisdiction over the claims asserted against Federal Defendants. The motion to dismiss
5 is scheduled for hearing on September 2, 2021. Pursuant to Local Rule 230, Plaintiffs' response to the
6 motion to dismiss is due on August 19, 2021, and Federal Defendants' reply in support of the motion is
7 due on August 26, 2021.

8 Also on August 5, 2021, Federal Defendants filed their opposition to Plaintiffs' motion for
9 preliminary injunction, arguing, among other things, that the Court cannot grant the relief that Plaintiffs
10 seek because it lacks jurisdiction. Plaintiffs' reply in support of their motion for preliminary injunction
11 is due on August 26, 2021.

12 In light of the overlapping issues raised by Federal Defendants' motion to dismiss and opposition
13 to the motion for preliminary injunction, the need for several agencies of the federal government to
14 review the draft reply, and respective counsels' workload, which as to Plaintiffs' counsel also includes
15 briefing responses to the CSU Defendants' separate motion to dismiss and opposition to the motion for
16 preliminary injunction, Plaintiffs and Federal Defendants hereby stipulate, subject to the Court's
17 approval, to the following revised briefing schedule and continuance of the hearing date:

- 18 • Deadline for Plaintiffs' Response to Federal Defendants' Motion to Dismiss: August 26,
19 2021;
- 20 • Deadline for Federal Defendants' Reply in Support of their Motion to Dismiss:
21 September 9, 2021;
- 22 • Hearing on Federal Defendants' Motion to Dismiss: September 16, 2021.

23 The Parties have not previously asked for an extension of time to file a response to, or reply in
24 support of, Federal Defendants' motion to dismiss. Previously, the Court granted Plaintiffs' ex parte
25 application for extension of time to file their reply in support of their motion for preliminary injunction.

1 August 12, 2021

Respectfully submitted,

2 /s/ Peter Gibbons (as authorized on Aug. 12, 2021)

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8 August 12, 2021

9 Respectfully submitted,

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24 *Counsel for Federal Defendants Xavier Becerra, Secretary of the U.S. Department of Health and*
Human Services; Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious
25 Diseases; Dr. Janet Woodcock, Acting Commissioner of the U.S. Food and Drug Administration; U.S.
26 Department of Health and Human Services; U.S. Food and Drug Administration; Centers for Disease
Control and Prevention; National Institutes of Health; and National Institute of Allergy and Infectious
27 Diseases

1 **[PROPOSED] ORDER**

2 Pursuant to stipulation and good cause having been shown, IT IS SO ORDERED.

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5 Dated: _____, 2021

6 TROY L. NUNLEY
7 UNITED STATES DISTRICT JUDGE

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